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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,998	11/24/2003	Gediminas Jonusauskas	046190/271875	3389
826	7590	05/21/2007	EXAMINER	
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			ROY, BAISAKHI	
ART UNIT		PAPER NUMBER		
3737				
MAIL DATE		DELIVERY MODE		
05/21/2007		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

ED

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/720,998	JONUSAUSKAS ET AL.	
	Examiner Baisakhi Roy	Art Unit 3737	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 01 March 2007.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 2,3 and 5-14 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 2, 3, and 5-14 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)                    4) Interview Summary (PTO-413)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)                    Paper No(s)/Mail Date. \_\_\_\_\_  
3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_                    5) Notice of Informal Patent Application  
6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Response to Arguments***

1. Applicant's arguments filed 3/1/07 have been fully considered but they are not persuasive. With respect to the application of alternating pulses of light of a high and low energy band, applicant's attention is directed to col. 15 lines 40-51, Jung et al. teach combining a second light source with a UV light source or a combined with a visible-light-blocking filter to produce a light output capable of causing the object to fluoresce. Therefore the tooth surface is illuminated with both an ultraviolet and visible source. The Jung et al. disclosure is directed to determining optical properties teeth where variations in color on teeth surface or more specifically variations in color over the area of one tooth are imaged by measuring and quantifying the color or other optical properties of teeth including pulpal tissue, and therefore necessarily includes determining properties of the mineral portion of the tooth (col. 14 lines 56-58, col. 36 lines 44 – col. 37 line 37). Jung et al. further teach comparing two sets of data to assess tooth surface properties (col. 14 lines 58-67, col. 45 lines 35-39). Also, Jung et al. do not limit to using a single light source in the visible light spectrum but may include radiant energy not within the visible light spectrum (col. 46 lines 33-37). Therefore Jung et al. teach using a light source or combination of light sources with images capture by intraoral camera to measure and assess various properties on a particular tooth such as color, translucency, fluorescence, gloss, surface texture and other properties (col. 32 lines 23-47). Therefore previous rejection is maintained and repeated below.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 2, 3, and 5-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Jung et al. (6246479). Jung et al. disclose a system and method of acquiring and processing images of a tooth (col. 4 lines 2-5). The steps including lighting a zone of the tooth in monochromatic light at a wavelength selected to excite emission of fluorescence (col. 66 lines 47-65), by the mineral portion of the tooth (col. 45 lines 14-17) using video to take images of lighted zone of the tooth (col. 37 lines 15-18, col. 45 lines 31-39) in two wavelength bands, one of which is in a high energy portion and the other of which is in a low energy portion of the emission spectrum, measuring the spectral intensity of the emitted fluorescence in these two wavelength bands at each point of the images, one in the ultraviolet and other visible (col. 15 lines 33-60), and taking the ratio at each point of the measurements in the two wavelength bands and comparing the ratio with predetermined values (col. 45 lines 31-40, col. 59 lines 55-61). The system includes spectral filter means comprising interchangeable color filters (col. 4 lines 33-37). The transmission means comprises an optical fiber image guide (col. 4

lines 7-13). The apparatus also include shutter or time gate means associated with the video means for taking alternately images of the zone of the tooth as illuminated in visible light and fluorescence images of the zone in high and low energy wavelength bands of the emission spectrum (col. 50 lines 45-53).

***Conclusion***

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Baisakhi Roy whose telephone number is 571-272-7139. The examiner can normally be reached on M-F (7:30 a.m. - 4p.m.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Casler can be reached on 571-272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3737

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BR

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BRIAN L. CASLER  
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